

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD DEAN MERTEN,

Plaintiff,

V.

WELDON MARK GILBERT, PIERCE
COUNTY JAIL, and OFFICER GARDNER,

Defendants.

No. C11-5641 RBL/KLS

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation [Dkt. #13], and the remaining record, does hereby find and **ORDER:**

- (1) The Court adopts the Report and Recommendation.
 - (2) This action shall proceed on Plaintiff's Eighth Amendment claims against Defendant Officer Gardner only; all other claims are **Dismissed Without Prejudice** prior to service for failure to state a claim.
 - (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any Defendants who have appeared, and to the Hon. Karen L. Strombom.

DATED this 10th day of January, 2012.

Ronald B. Lightner

**RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE**